

ORDINANCE NO. 2019-07

**AN ORDINANCE OF THE CITY OF EDGEWOOD, FLORIDA, AMENDING CHAPTER 62 OF THE CODE OF ORDINANCES TO PERMIT HEARINGS BEFORE THE LOCAL HEARING OFFICER OF LOCAL PARKING VIOLATIONS WITHIN THE CITY OF EDGEWOOD; PROVIDING FOR DEFINITIONS; ADOPTING STATE PARKING STATUTES UNDER CHAPTER 316, FLORIDA STATUTES; PROVIDING FOR CIVIL PENALTIES FOR PARKING NEAR A FIRE HYDRANT AND PARKING IN A FIRE LANE; ESTABLISHING PROCEDURES BEFORE THE LOCAL HEARING OFFICER; ESTABLISHING ADMINISTRATIVE COSTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, CONFLICTS, AND AN EFFECTIVE DATE.**

**WHEREAS**, the current parking ordinance contemplates that all hearings challenging a City of Edgewood parking violation notice shall be conducted before “the appropriate judge or the county court”; and

**WHEREAS**, there is no procedure currently existing within the Clerk of Court for Orange County and the Orange County Court for the Ninth Judicial Circuit to conduct hearings before a county court judge for violations of the City of Edgewood’s parking ordinances; and

**WHEREAS**, Sections 316.008(1)(a), (2), (5), and 316.1967(2)-(5), Florida Statutes, authorize the City of Edgewood to regulate parking within the city limits and extend jurisdiction for the prosecution, trial, adjudication, and punishment of local parking ordinances to the City; and

**WHEREAS**, pursuant to said authority, the City of Edgewood finds it prudent to designate its Local Hearing Officer for violations of the Mark Wandall Traffic Safety Act, as the designated official to hear challenges of local parking violations notices; and

**WHEREAS**, in the interest of the health, safety, and welfare of the public, the current parking ordinance should be amended to include violations for parking too close to a fire hydrant and parking in a fire lane, consistent with Chapter 316, Florida Statutes.

**NOTE:** Underlined words constitute additions to the City of Edgewood Code of Ordinances, ~~strikethrough~~ constitutes deletions from the original Code of Ordinances, and asterisks (\*\*\*) indicate an omission from the existing text which is intended to remain unchanged.

**SECTION 1. Legislative Findings and Intent.** The findings set forth in the recitals above are hereby adopted as legislative findings pertaining to this ordinance.

**SECTION 2.** Chapter 62, Article II. "Stopping, Standing, and Parking," of the City of Edgewood Code of Ordinances shall be amended as follows:

\* \* \*

Sec. 62-20. – Definitions.

As used in Article II, the following words shall have the meaning indicated unless the context clearly indicates otherwise. All other definitions contained in Section 316.003, Florida Statutes, not in conflict with the definitions in this section shall be applicable and are incorporated by reference.

Local Hearing Officer means the person designated by the city to hear notice of violations under Mark Wandall Traffic Safety Act, Fla. Stat. § 316.0083, and contests of municipal parking violations under this article as provided by Fla. Stat. §§ 316.008(1)(a), (2), (5). The local hearing officer may also be the city's currently appointed code enforcement board or special magistrate.

Motor vehicle means any self-propelled vehicle in, upon, or by which a person or property is or may be transported or drawn upon a highway, roadway or street, excluding bicycles, mopeds, motorized scooters and vehicles operated upon rails, tracks or guideways.

Park or parking means the halting of a motor vehicle, regardless of whether the vehicle is occupied or in operation, except for the momentary purpose of receiving or discharging passengers or materials.

Stop or stopping means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic, to comply with the directions of a law enforcement officer, to yield to a funeral procession or emergency vehicle, or to comply with a traffic control sign, signal or device.

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Sec. 62-21. – State parking statutes adopted: issuance of parking violations notices; parking restrictions and prohibitions.

- (a) Except as otherwise stated herein, those portions of Chapter 316, Florida Statutes, as now or hereafter amended, being the State Uniform Traffic Control Law, pertaining to the parking of motor vehicles, are hereby adopted by reference as if fully set forth herein. Any violation of these parking statutes is considered a violation of Article II.

(b) A law enforcement officer, community service officer, traffic infraction enforcement officer, or a parking enforcement specialist who discovers an illegally parked vehicle pursuant to city ordinance or general law may issue a parking violation notification to the driver of the vehicle or, if the vehicle is unattended, may attach such notice a conspicuous place on the vehicle. Each day that a parking violation occurs constitutes a separate offence for which a parking violation notice may be issued.

(c) The mayor and chief of police are hereby authorized to prohibit or limit parking in the City Hall parking lot when such prohibitions or limitations serve a valid public purpose. Signs or markers clearly indicating any prohibition or limitation established under this section shall be erected and maintained giving notice thereof. When authorized signs are erected as provided herein, it shall be unlawful to park in a manner contrary to such signage.

(d) It shall be unlawful for any person to park a vehicle on any right-of-way of the city, or in any street other than parallel with the edge of the curb or paved roadway headed in the direction of lawful traffic movement, and with the curbside wheels of the vehicle within 12 inches of the curb or paved edge of the roadway, except:

(1) Upon those portions of streets which have been marked or signed for angle parking, vehicles shall be parked at the angle to the curb indicated by such mark or signs with the right front wheel against the curb;

(2) In places where stopping for the loading or unloading of merchandise or material is permitted, vehicles used for the transportation of merchandise or materials may back into the curb to take on or discharge loads.

(e) When the curb on the side of the road is marked yellow, or when authorized signs are erected indicating that no parking is permitted on any designated side of any street or any other designated no-parking area, it shall be unlawful for any person to park a vehicle in any such designated area.

(f) On such streets where parking spaces are officially indicated by signs or markings, parking shall be allowed only within such spaces and then only for the times indicated by such signs or markings.

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Sec. 62-26. - Schedule of civil penalties for parking violations; liability for civil penalties.

There is hereby adopted the following schedule of civil penalties for parking violations occurring within the city of which payment may be made to the general fund:

Violation	Amount of Civil Penalty
Parking where prohibited by official signs	\$30.00

Parking in bus space or taxi stand	30.00
Parking on sidewalk or unpaved right-of-way	30.00
Parking in passenger loading zone	30.00
Parking by yellow curb (on sign)	30.00
Parking over the lines used to indicate spaces where parking is permitted	30.00
Parking against traffic flow (wrong direction)	30.00
Unauthorized parking in reserved space	30.00
Unauthorized parking in space for disabled	150.00
Unauthorized parking in freight loading zone	30.00
Obstructing traffic	30.00
Parking within 15 feet of a fire hydrant	30.00
Parking in a fire lane	100.00

The registered owner of the vehicle receiving a parking violation notice is responsible and liable for payment of the civil penalties set forth above unless the owner can furnish evidence that the vehicle was, at the time of the parking violation, in the care, custody, or control of another person. In such instances, the owner of the vehicle is required, within thirty (30) calendar days from the date of the parking violation notice, to furnish the City of Edgewood Police Department and/or its parking violations bureau with an affidavit setting forth the name and address, and, if possible, the driver's license number of the person or company who leased, rented, or otherwise had care, custody, or control of the vehicle. The affidavit submitted under this subsection is admissible in any proceeding before the Local Hearing Officer or otherwise and raises the rebuttable presumption that the person identified in the affidavit is responsible for the parking violation. The owner of a vehicle is not responsible for parking violations if the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle. Prima facie evidence that the vehicle was stolen or was in the care, custody, or control of some person who did not have permission of the owner shall be in the form of a report from appropriate law enforcement agency.

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Sec. 62-29. – Procedures upon receipt of parking violation notice; contesting parking violations; administrative costs; and proceedings before the Local Hearing Officer.

- (a) Any person receiving a parking violation notice issued under Article II of this code shall, within thirty (30) calendar day from the date of the notice, pay the civil penalty on the parking violation notice or request a hearing before the City's Local Hearing Officer challenging the violation.
- (b) The person requesting a hearing before the Local Hearing Officer must do so in writing on a document provided by the City of Edgewood Police Department and/or its parking violations bureau, indicating his or her willingness to attend a local hearing and acknowledging the possible penalties. Absent a valid request for continuance set forth in subsection (c), any person who requests a hearing and fails to appear waives their right to be heard, to present evidence, or to offer any defense at the hearing.
- (c) Once a local hearing is scheduled, the person requesting the hearing may make one (1) request for a continuance in writing, demonstrating good cause for a continuance, which must be delivered or received by the City of Edgewood Police Department and/or its parking violations bureau at least five (5) business days prior to the hearing date. The City shall not unreasonably refuse a request for continuance that complies with the requirements of this subsection. In the event a continuance is granted at the owner's request, if the matter subsequently proceeds to a hearing, the City may request, and the Local Hearing Officer shall consider, an award of no more than \$50.00 in administrative costs for the costs of the continuance. Any administrative costs awarded under this subsection shall be in addition to those administrative costs set forth in subsection (g).
- (d) A request for a hearing constitutes a waiver of the right to pay the civil penalty on the parking violation notice and set forth in Sec. 62-26.
- (e) Formal rules of evidence do not apply at hearings before the Local Hearing Officer, but due process shall be observed and govern the proceedings. The Local Hearing Officer shall make a determination as to whether a parking violation was committed based solely on competent, substantial evidence presented at the hearing, which may be presented by a traffic infraction enforcement officer, a parking enforcement specialist, or any member of the City of Edgewood Police Department or its parking violations bureau.

- (f) Following a hearing, the Local Hearing Officer shall make a determination as to whether a parking violation has been committed. If the Local Hearing Officer upholds the violation, the hearing officer may impose a civil penalty not to exceed \$100.00 if the original parking violation was \$30.00, or \$250.00 for all other parking violation offenses in excess of \$30.00. Civil penalties imposed under this subsection do not include administrative costs of the hearing.
- (g) If the violation is upheld, the Local Hearing Officer may also impose reasonable administrative costs of the hearing not to exceed \$100.00, which shall be in addition to the civil penalty imposed.
- (h) All requests for a hearing on a parking violation infraction under Sec. 62-29 shall be heard by the Local Hearing Officer at a regularly scheduled hearing for local hearings conducted pursuant to the Mark Wandall Traffic Safety Act, Fla. Stat. § 316.0083.

~~Any person receiving a parking violation notice shall, within five working days, pay the civil penalty as prescribed in section 62-26 or request a hearing before the appropriate judge of the county court. Any person electing to appear before the designated judge shall be deemed to have waived his right to pay the civil penalty as set forth in section 62-26. The judge, after a hearing, shall make a determination as to whether a violation has been committed. If the commission of violation has been proven, the judge may impose a fine not to exceed \$100.00 plus court costs, and plus a reasonable attorney's fee for the city prosecutor.~~

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Sec. 62-30. - Disposition of parking violation fines and civil penalties; procedures upon noncompliance with parking violation notice.

- (a) All fines civil penalties and administrative costs or forfeitures imposed or collected pursuant to Article II upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this article shall be paid into the city treasury and deposited in the general fund of the city.
- (b) Any person and/or registered owner who fails to pay the civil penalty, request a hearing, or produce an affidavit transferring liability within thirty (30) days from receiving a parking violation notice or by the date reflected on the notice, whichever is later, shall be deemed to have waived the right to contest the merits of the parking violation. The City of Edgewood Police Department and/or its parking violations bureau shall assess a \$20.00 delinquent fee per violation against the registered

owner of the vehicle or the person identified by affidavit as the responsible party. In addition, a notice of delinquent fee assessment shall be sent by certified mail to the registered owner or responsible party, informing such person of the parking violation notice, failure to comply therewith and the delinquent fee assessment. Such notice shall direct the owner or responsible party to respond within fourteen (14) calendar days; otherwise a notification of delinquency will be referred to the Florida Department of Highway Safety and Motor Vehicles. Administrative costs of \$5.00 or the actual costs of mailing, which ever is greater, shall be added to the delinquent fee. ~~any person summoned by a parking violation notice affixed on a motor vehicle does not respond to such notice within the time specified on such notice, the parking fines section shall assess a \$20.00 delinquent fee per violation against the registered owner of the motor vehicle. In addition, a notice of summons shall be sent, by certified mail, to the registered owner of the motor vehicle, which was cited, informing such owner of the parking violation notice and the failure to comply therewith. Such notice shall direct the recipient to respond within ten calendar days; otherwise, a summons will be issued for failure to comply with section 62-31. Costs in the amount of \$5.00 shall be assessed incident to this notification process.~~

- ~~(c) — If a response is not made within the time period specified in the notice of summons, a summons will be issued commanding an appearance before a judge of the court and the service of process charge of \$10.00 per summons shall be assessed.~~
- ~~(d) — After issuance of summons, a hearing on the charge of failure to comply shall be scheduled and such charge prosecuted by the city prosecutor in the county court.~~
- ~~(e) — Any person who fails to respond to the original parking violation notice within the time period specified on such notice shall be deemed to have waived the right to contest the merits of such parking violation.~~

~~(f) (c) A violation of section 62-31 shall be deemed a separate and distinct violation and shall not be construed to be merged with or a part of the original parking violation.~~

**SECTION 3. Severability.** If any section, subsection, sentence, clause, phrase, work or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 4. Conflicts.** In the event of a conflict or conflicts between this Ordinance any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable

under the law.

**SECTION 5. Codification.** It is the intent of the City Council of the City of Edgewood that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provisions of this Ordinance.

**SECTION 6. Effective Date.** This Ordinance shall take effect immediately upon the adoption as provided by the Charter of the City of Edgewood.

Passed on First Reading on the 17<sup>th</sup> day of September, 2019.

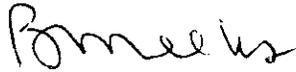
Passed on Second Reading and Adopted on the 15<sup>th</sup> day of October, 2019.

City of Edgewood, Florida  
City Council



Richard A. Horn  
Council President

ATTEST:



Bea Meeks, City Clerk